

IN THE DISTRICT COURT OF THE UNITED STATES
FOR THE DISTRICT OF SOUTH CAROLINA
GREENVILLE DIVISION

James F. Russell,

Plaintiff,

vs.

JoAnne B. Barnhart,

Commissioner of Social Security,

Defendant.

Civil Action No. 6:05-0828-TLW

ORDER

This is a social security case. The matter is before the Court for review of the Report and Recommendation (Report) of the United States Magistrate Judge suggesting that the Commissioner's decision be reversed under sentence four of 42 U.S.C. § 405(g), with a remand of the cause to the Commissioner for further proceedings. The Report is made in accordance with 28 U.S.C. § 636(b)(1)(B) and Local Civil Rule 73.02(B)(2)(a), D.S.C.

The Magistrate Judge makes only a recommendation to this Court. The recommendation has no presumptive weight. The responsibility to make a final determination remains with the Court. See Mathews v. Weber, 423 U.S. 261, 270 (1976). The Court is charged with making a de novo determination of those portions of the Report to which specific objection is made, and the Court may accept, reject, or modify, in whole or in part, the recommendation of the Magistrate Judge or recommit the matter with instructions. See 28 U.S.C. § 636(b)(1).

The Magistrate Judge filed his Report on May 23, 2006. On June 2, 2006, Defendant filed a response to the Report, indicating that she did not intend to file an objection. In the absence of objections, the Court is not required to give any explanation for adopting the recommendation. Camby v. Davis, 718 F.2d 198, 199 (4th Cir. 1983). Moreover, a failure to object waives appellate

review. Wright v. Collins, 766 F.2d 841, 845-46 (4th Cir. 1985). After a thorough review of the Report and the record in this case pursuant to the standards set forth above, the Court adopts the Report and incorporates it herein. Therefore, it is the judgment of this Court that the decision of the Commissioner be **REVERSED** under sentence four of 42 U.S.C. § 405(g), with a remand of the cause to the Commissioner for further proceedings.

IT IS SO ORDERED.

s/ Terry L. Wooten
TERRY L. WOOTEN
UNITED STATES DISTRICT JUDGE

July 13, 2006
Florence, South Carolina